

define an interior space of the box. Then the bottom is put inside the space so that at least some of the bottom contacts the side element. Where they contact a “corner is formed around the inside periphery of the side element with the closure element.” The structure of the box is not new; it is like prior candy boxes that have a side and a bottom. The invention is in how they are held together. Keep in mind they are separate pieces.

Lingemann discloses a structure for keeping two sheets of glass apart. To do this, he uses a hollow metal tube. He bends the tube to make a corner. But bending a hollow metal tube creates a problem. So he cuts a part of the tube away to facilitate the bending. Fig. 4 shows the corner. The tube is still one piece. Lingemann also uses “a stopper and/or plug [is] injected into the curved corner, wherein the stability of the corner can be considerably increased. With the injection of a molten adhesive any unevenness in the walls of the hollow profile structure can be pressed out in the corner zone” (column 3, lines 26-33).

It is apparent that Lingemann teaches nothing about how to make a candy box (or any box) from two pieces of paperboard. In particular he is not joining two separate pieces. He is working with a hollow metal tube that is bent. He does not use adhesive to join anything together. He uses adhesive for “stability” and to press out “unevenness.”

Referring to the Examiner’s earlier rejection applying Lingemann, Lingemann does not show a fixture which the side element and the closure element of a box are assembled nor the application of glue in any way to join the side element and the side element together. As previously submitted in argument and in the DECLARATION OF STEVEN STANTON making a candy box presents peculiar problems that are alleviated by the present invention which is previously unknown.

Consequently, Lingemann does not teach any modification of Stanton ‘917 that could possibly be applied by any logic nor could it possibly result in the claimed method. In particular, no modification is taught that will result in joining the two elements together with a glue filling.

In further response to the final action, the Examiner stated that “the claims do not preclude the use of a spacer.” It is apparent that this invention is an improvement over Stanton’s prior patent, ‘917 by precluding the need for a spacer. In any case, the claims have been amended currently to preclude the spacer.

The Examiner stated that Stanton shows the top closure element being secured to a side element since the closure element will spread glue. This is wrong as applied to any of the claims except perhaps claim 9 (now cancelled) in which a second closure element is

placed over the first with the glue between them. Lingemann, again, does not teach the basic concept of applying glue in corner to reinforce a structure where the glue is used to hold the pieces together. In fact, the Examiner's conclusion that the adhesive of Lingemann is for reinforcement is a misstatement of Lingemann's teaching.

With respect to claim 5, there is a similar distance between the reference and the claimed invention whose only commonality appears to be use of the word "tab." In claim 5, instead of the closure element having a continuous periphery, it is interrupted by spaces so as to leave tabs as shown in Fig. 10 (tabs 102). Matovich also uses the word "sealing tab" but for a different structure in a different combination for a different purpose. Matovich's sealing tab allow overlap of elements for gluing them together as shown in Fig. 3 with sealing tabs 22.

It is submitted that the Examiner has applied the forbidden process of hindsight by searching for key words in the claim and attempting to construct from those key words the method claimed. It is requested that upon reconsideration, the present claims be allowed.

If any extension of time is required for this filing, such extension of time is hereby requested and if any fee is required for this filing, such fee may be charged to deposit account 50-1054.

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